

# NEWS

NEW JERSEY DEPARTMENT OF

# LWD

LABOR AND WORKFORCE DEVELOPMENT  
nj.gov/labor

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Department of Labor and  
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RE: *Proposed Amendments: N.J.A.C. 12:90-3.12,  
3.13, 4.8, 4.12, 4.13, 4.14, 5., 5.15, 5.16, 6.4, 6.5,  
8.2, 8.15 and 8.19 Boilers, Pressure Vessels and  
Refrigeration*

Attached please find the above-referenced matter which was published in the Monday, February 6, 2006 *New Jersey Register*.

If you have any questions, please contact David Fish, Regulatory Officer at 609-292-2789.

# LABOR AND WORKFORCE DEVELOPMENT

(a)

## PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH

### Boilers, Pressure Vessels and Refrigeration

**Proposed Amendments: N.J.A.C. 12:90-3.12, 3.13, 4.8, 4.12, 4.13, 4.14, 5.9, 5.15, 5.16, 6.4, 6.5, 8.2, 8.15 and 8.19**

Authorized By: A.J. Sabath, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:7-18 and Reorganization Plan 002-2002.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-42.

A public hearing on the proposed amendments will be held on the following date at the following location:

Thursday, February 23, 2006

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by April 7, 2006 to:

David Fish, Regulatory Officer

Office of Legal and Regulatory Services

PO Box 110, 13th Floor

Trenton, New Jersey 08625-0110

Fax: (609) 292-8246

If you need this document in Braille, large print or audio cassette, please contact the Office of Marketing at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

#### Summary

P.L. 2003, c. 117, codified in pertinent part at N.J.S.A. 34:7-3, 14, 15, 16, 19, and 25, sets fees pertaining to boilers, pressure vessels and refrigeration systems for fiscal years 2003-04 and 2004-05 and instructs that after fiscal year 2004-05, "such fees may be adjusted by the Commissioner of Labor (and Workforce Development) in accordance with fee schedules adopted by regulation." Pursuant to the fee adjustment provision in P.L. 2003, c. 117, the Department is proposing to amend N.J.A.C. 12:90, the rules pertaining to boilers, pressure vessels and refrigeration systems, so as to double the fees charged under the chapter for (1) filing by prospective inspectors of applications for a New Jersey Certificate of Competency, (2) renewal of Certificates of Competency, (3) registration of reports of welded repairs and alterations to boilers, (4) shop inspections, (5) field inspections, (6) replacement of damaged, altered, defaced or lost certificates, (7) construction review of vessels not designed in accordance with American Society of Mechanical Engineers (ASME) standards, (8) registration of unfired pressure vessels, (9) application for examinations and issuance of licenses for operating engineers and firemen, and (10) renewal of licenses for operating engineers and firemen.

Specifically, the Department is proposing to amend N.J.A.C. 12:90-3.12(b), (c) and (d) so as to increase the fee from \$50.00 to \$100.00 for the filing of applications for a New Jersey Certificate of Competency by persons who (1) seek to perform boiler inspections under the requirements of N.J.A.C. 12:90-4.10 and N.J.A.C. 12:90-5.14, (2) seek to perform only shop inspections, and (3) seek to perform only owner-user inspections under N.J.A.C. 12:90-5.12, 5.13, or 5.14.

The Department is proposing to amend N.J.A.C. 12:90-3.13(b) so as to increase the fee from \$20.00 to \$40.00 for a one-year renewal of a

Certificate of Competency and from \$40.00 to \$80.00 for a three-year renewal of a Certificate of Competency. The Department is also proposing to amend N.J.A.C. 12:90-3.13(d) so as to increase the fee from \$10.00 to \$20.00 for the transfer of a Certificate of Competency from one authorized inspection agency to another authorized inspection agency.

The Department is proposing to amend N.J.A.C. 12:90-4.8(g) so as to increase the fee from \$2.00 to \$4.00 for registration with the Bureau of Boiler and Pressure Vessel Compliance of an alteration report and a copy of the original manufacturer's data report for each welded repair or alteration to boilers.

The Department is proposing to amend N.J.A.C. 12:90-4.12(a) so as to double the fee for a shop inspection. Specifically, the rule currently indicates that the fee for a shop inspection shall be the higher of either (1) \$50.00 for each boiler inspected, or (2) a daily visit charge of \$160.00 for any shop inspection of four hours or less and \$300.00 for any shop inspection exceeding four hours. The Department is proposing that N.J.A.C. 12:90-4.12(a) be amended so that the fee for a shop inspection shall be the higher of either (1) \$100.00 for each boiler inspected, or (2) a daily visit charge of \$320.00 for any shop inspection of four hours or less and \$600.00 for any shop inspection exceeding four hours.

The Department is proposing to amend N.J.A.C. 12:90-4.13(a) so as to increase the fee from \$20.00 to \$40.00 for each boiler inspected as part of an insurance company annual field inspection. The Department is also proposing to amend N.J.A.C. 12:90-4.13(c) so as to double the fee for a State field inspection for each annual internal-external inspection. Specifically, the rule currently indicates that the fee for a State field inspection for each annual internal-external inspection shall be (1) \$40.00 for a boiler, "[t]en and not over 60 square feet," (2) \$55.00 for a boiler, "60 and not over 1,000 square feet," and (3) \$75.00 for a boiler, "1,000 square feet and over." The Department is proposing that N.J.A.C. 12:90-4.13(c) be amended so that the fee for a State field inspection for each annual internal-external inspection shall be (1) \$80.00 for a boiler, "ten and not over 60 square feet," (2) \$110.00 for a boiler, "[s]ixty and not over 1,000 square feet," and (3) \$150.00 for a boiler, "1,000 square feet and over." Furthermore, the Department is proposing to amend N.J.A.C. 12:90-4.13(d) so as to increase the fee from \$50.00 to \$100.00 for an external inspection (in addition to the annual internal-external inspection).

The Department is proposing to amend N.J.A.C. 12:90-4.14(d) so as to increase the fee from \$8.00 to \$16.00 for the replacement of a damaged, altered, defaced or lost boiler registration certificate.

The Department is proposing to amend N.J.A.C. 12:90-5.9(b)4 so as to increase the fee from \$1,500 to \$3,000 for filing an application to obtain Department approval for a non-code vessel as a Class III unfired pressure vessel.

The Department is proposing to amend N.J.A.C. 12:90-5.15(a) so as to double the fee for a pressure vessel shop inspection. Specifically, the rule currently indicates that the fee for a pressure vessel shop inspection shall be either (1) a daily visit charge of \$160.00 for a shop inspection of four hours or less and \$300.00 for a shop inspection which exceeds four hours, or (2) \$50.00 for each pressure vessel inspected when the purpose of the visit is to inspect specific vessels. The Department is proposing to amend N.J.A.C. 12:90-5.15(a) so that the fee charged for a pressure vessel shop inspection shall be either (1) a daily visit charge of \$320.00 for a shop inspection of four hours or less and \$600.00 for a shop inspection which exceeds four hours, or (2) \$100.00 for each pressure vessel inspected when the purpose of the visit is to inspect specific vessels.

The Department is proposing to amend N.J.A.C. 12:90-5.16(d) so as to increase the fee from \$2.00 to \$4.00 for the registration of pressure vessels which have neither been registered with the National Board, nor been inspected by State inspectors.

The Department is proposing to amend N.J.A.C. 12:90-6.4(e) so as to increase the fee from \$7.50 to \$15.00 for replacement of a damaged, altered, defaced or lost refrigeration registration certificate.

The Department is proposing to amend N.J.A.C. 12:90-6.5(a) so as to increase the fee from \$20.00 to \$40.00 for each refrigeration system inspected as part of an insurance company annual field inspection. The Department is also proposing to amend N.J.A.C. 12:90-6.5(c) so as to double the fee for a State field inspection of a refrigeration system. Specifically, the rule currently indicates that the fee for an annual State field inspection of a refrigeration system shall be (1) \$50.00 for a refrigeration



system "[o]ver three and under 25 tons," (2) \$75.00 for a refrigeration system "25 tons and over, but less than 300 tons," and (3) \$100.00 for a refrigeration system "300 tons and over." The Department is proposing that N.J.A.C. 12:90-6.5(c) be amended so that the fee for an annual State field inspection of a refrigeration system shall be (1) \$100.00 for a refrigeration system "over three and under 25 tons," (2) \$150.00 for a refrigeration system "[t]wenty-five tons and over, but less than 300 tons," and (3) \$200.00 for a refrigeration system "300 tons and over." In addition, the Department is proposing that N.J.A.C. 12:90-6.5(c) be amended so as to change "Commission of Labor and Workforce Development" to "Commissioner of Labor and Workforce Development." This proposed amendment is to correct a typographical error.

The Department is proposing to amend N.J.A.C. 12:90-8.2(k) so as to increase the fee charged for each examination and for any license issued by the Bureau of Boiler and Pressure Vessel Compliance relating to operating engineers or firemen from \$50.00 to \$100.00. The Department is also proposing within N.J.A.C. 12:90-8.2(k) to increase the fee for a raise of grade or additional classification from \$40.00 to \$80.00.

The Department is proposing to amend N.J.A.C. 12:90-8.15(g) so as to increase the fee from \$3.00 to \$6.00 for a duplicate license for part-time employment as an operating engineer or fireman.

The Department is proposing to amend N.J.A.C. 12:90-8.19(a) so as to increase the fee from \$20.00 to \$40.00 for a one-year renewal of an unexpired operating engineer's or fireman's license and from \$40.00 to \$80.00 for a three-year renewal of an unexpired operating engineer's or fireman's license. The Department is also proposing to amend N.J.A.C. 12:90-8.19(c) so as to increase the fee from \$30.00 to \$60.00 for a one-year renewal of an expired operating engineer's or fireman's license and from \$60.00 to \$120.00 for a three-year renewal of an expired operating engineer's or fireman's license. In addition, the Department is proposing to amend N.J.A.C. 12:90-8.19(e) so as to increase from \$5.00 to \$10.00, the fee for replacement of an altered, defaced or otherwise mutilated operating engineer's or fireman's license.

In terms of justification for the proposed fee increases, the Bureau of Boiler and Pressure Vessel Compliance within the Department is currently responsible by law for the inspection of approximately 15,000 boilers and refrigeration systems (objects) per year. At current staffing levels, the Bureau is only equipped to inspect a total of approximately 9,600 objects per year. Moreover, the population of the State continues to grow annually. Along with that increase in population, comes an increase in the number of businesses within the State which contain boilers and refrigeration systems requiring inspection under the law. For example, most types of industry (small, medium and large), are housed in buildings containing boilers and/or refrigeration systems. Public and private schools all contain boilers and/or refrigeration systems, as do churches, apartment buildings, office buildings, hotels, motels, hospitals, elder care facilities, child care facilities, colleges and universities, correctional facilities, warehouses, self-storage facilities, supermarkets, and indoor auditoriums. Even many small businesses, like dry cleaners, mortuaries, spas, sports clubs and car washes contain boilers and/or refrigeration systems which require inspection. In order to fulfill its statutory obligations pertaining to the inspection of boilers and refrigeration systems and the licensing of engineers and equipment operators, the Department is proposing the above mentioned fee increases.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed amendments would have a positive social impact in that the increased revenue generated thereby would, as discussed in the Summary above, enable the Department to more effectively meet its enforcement obligations under the law with regard to the inspection of boilers and refrigeration systems. The Department's improved enforcement capability would, in turn, benefit the general public in that they would be considerably more safe when working or living in or near the numerous structures throughout the State which contain boilers and refrigeration systems.

#### Economic Impact

The proposed amendments would approximately double the revenues received by the Department from fees associated with the inspection of boilers and refrigeration systems and would have the same effect on revenues received by the Department from fees associated with the licensing of engineers and equipment operators. Conversely, the proposed amendments would double the amount of fees paid by owners and operators of boilers and refrigeration systems who are responsible for ensuring that these objects are regularly inspected and by those individuals who must obtain licenses as either engineers or equipment operators in order to work with boilers, pressure vessels or refrigeration systems. The Department believes that the negative economic impact on such persons which would result from the proposed increase in fees would, as indicated within the Social Impact statement above, be outweighed by the positive social impact on the public, namely, the improvement in the safety of boilers, pressure vessels and refrigeration systems which would result from the increase in inspection staff. As indicated above, the Department has certain statutory obligations with regard to the inspection of boilers and refrigeration systems which, at current staffing levels, it will be unable to meet. The proposed increase in fees should enable the Department to more effectively address these statutory obligations. The proposed fee schedule is comparable to the fees charged by jurisdictions throughout the United States where equivalent services and protections are afforded, such as New York, Connecticut, Rhode Island, California, and Michigan.

#### Federal Standards Statement

The proposed amendments are governed by N.J.S.A. 34:7-1 et seq. and 34:7-14 et seq., and are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

#### Jobs Impact

As indicated above, the Department anticipates that the proposed amendments would permit the hiring of additional inspectors within its Bureau of Boiler and Pressure Vessel Compliance. Otherwise, the Department does not anticipate that the proposed amendments would have an impact on either the generation or loss of jobs.

#### Agriculture Industry Impact

The proposed amendments would have an impact on the agriculture industry to the extent that those in the industry may own or operate boilers, pressure vessels or refrigeration systems, in which case those persons would be required to remit the same increased fees for inspections and/or licenses associated with the ownership and operation of such equipment as would any other owner or operator of such equipment. The actual impact upon such persons would, of course, vary depending on the size, nature and condition of the equipment.

#### Regulatory Flexibility Analysis

The proposed amendments would impose no reporting or recordkeeping requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, with regard to compliance requirements and adverse economic impact on small businesses, as described above in the Summary and Economic Impact statements, the proposed amendments would double the amount of fees paid by owners and operators of boilers, pressure vessels and refrigeration systems, who are responsible for ensuring that these objects are regularly inspected and by those individuals who must obtain licenses as either engineers or equipment operators in order to work with boilers, pressure vessels or refrigeration systems. Such owner/operators and licensees could include small businesses. As also explained above in the Economic Impact statement, the Department believes that the negative economic impact on such persons which would result from the proposed increase in fees would be outweighed by the improvement in the safety of boilers, pressure vessels and refrigeration systems throughout the State. The Department does not anticipate that professional services will be needed in order to comply with the proposed amendments.

With regard to how the amendments are designed to minimize adverse impact on small businesses, the Department has determined that the proposed fee increases are the minimum necessary in order to more effectively staff the Bureau of Boiler and Pressure Vessel Compliance and thereby protect the lives and safety of persons who work with, or



who live or work in proximity to boilers, pressure vessels and refrigeration systems.

#### Smart Growth Impact

The proposed amendments would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### 12:90-3.12 Qualification of inspectors

(a) (No change.)

(b) Any inspector who shall perform boiler inspections under the requirements of N.J.A.C. 12:90-4.10 (and/or N.J.A.C. 12:90-5.14) shall receive a Certificate of Competency after submitting an application for a Certificate of Competency and meeting the following requirements:

1. An application for a New Jersey Certificate of Competency shall be completed in its entirety, signed and dated by the applicant, and the applicant's signature shall be notarized. The application shall include the applicant's name, address, city and state with zip code, county, telephone number, education, place of employment, National Board and other state commissions held and a statement of experiences. The application shall be accompanied by a \$[50.00]100.00 application fee; and

2.-3. (No change.)

(c) Any inspector whose duties shall be limited to shop inspections that require a New Jersey Certificate of Competency can apply for a "Shop Inspection" Certificate of Competency based solely on holding a valid Commission issued by the National Board of Boiler and Pressure Vessel Inspectors. The application shall meet the following requirements:

1. An application for a New Jersey Certificate of Competency shall be completed, signed and dated by the applicant and this signature shall be notarized. The application shall include the applicant's name, address, city and state with zip code, county, telephone number, education, place of employment, National Board and other state commissions held and a statement of experiences. The application shall be accompanied by a \$[50.00]100.00 application fee; and

2. (No change.)

(d) Any inspector whose duties shall be limited to owner-user inspections under N.J.A.C. 12:90-5.12, 5.13 or 5.14 shall receive a Certificate of Competency after submitting an application for a Certificate of Competency and meeting the requirements under (d)1 through 3 below.

1. An application for a New Jersey Certificate of Competency shall be completed, signed and dated by the inspector, and this signature shall be notarized. The application shall include the applicant's name, address, city and state with zip code, county, telephone number, education, place of employment, National Board and other state commissions held and a statement of experiences. The application shall be accompanied by a \$[50.00]100.00 application fee.

2.-4. (No change.)

(e) (No change.)

#### 12:90-3.13 Renewal of Certificates of Competency

(a) (No change.)

(b) When applying for the renewal of a Certificate of Competency, the authorized inspection agency or owner/user inspection agency shall submit a renewal fee of \$[20.00]40.00 for a one-year renewal or \$[40.00]80.00 for a three-year renewal.

(c) (No change.)

(d) When transferring a Certificate of Competency from one authorized inspection agency to another authorized inspection agency, a \$[10.00]20.00 transfer fee shall be submitted. The expiration date of the Certificate of Competency shall be retained.

(e) (No change.)

#### 12:90-4.8 Welded repairs and alterations to boilers

(a)-(f) (No change.)

(g) An alteration report and a copy of the original manufacturer's data report shall be filed with the National Board of Boiler and Pressure Vessel Inspectors or the Bureau of Boiler and Pressure Vessel Compliance if the boiler is not registered with the National Board. Fees

for registration of these reports shall be \$[2.00]4.00 for each boiler and shall be forwarded to the Bureau of Boiler and Pressure Vessel Compliance for registration.

1.-2. (No change.)

#### 12:90-4.12 Fee and visit charge for shop inspection

(a) The fee for a shop inspection shall be the higher of either (a)1 or 2 below:

1. A fee of \$[50.00]100.00 for each boiler inspected; or

2. A daily visit charge of \$[160.00]320.00 for any shop inspection of four hours or less and \$[300.00]600.00 for any shop inspection exceeding four hours.

#### 12:90-4.13 Fee for field inspection

(a) An insurance company making an annual field inspection shall pay a fee of \$[20.00]40.00 for each boiler inspected. The insurance company shall pay the fee to the Commissioner of Labor and Workforce Development within 30 days of performing the inspection.

(b) (No change.)

(c) The fee for a State field inspection for each annual internal-external inspection, which shall include a hydrostatic test if found necessary, shall be paid to the Commissioner of Labor and Workforce Development as follows:

1. Ten and not over 60 square feet	\$[40.00]80.00
2. [60] Sixty and not over 1,000 square feet	\$[55.00]110.00
3. 1,000 square feet and over	\$[75.00]150.00

(d) In addition to the annual internal-external inspection, there may be an external inspection for which the owner or user shall pay to the Commissioner of Labor and Workforce Development a fee of \$[50.00]100.00.

#### 12:90-4.14 Registration of boilers

(a)-(c) (No change.)

(d) Damaged, altered, defaced or lost certificates must be replaced by request through the Bureau of Boiler and Pressure Vessel Compliance for replacement. The fee for replacement shall be \$[8.00]16.00.

#### 12:90-5.9 Class III unfired pressure vessels - New Jersey Approved

(a) (No change.)

(b) The application for a New Jersey Approved unfired pressure vessel shall meet the following requirements:

1.-3. (No change.)

4. All letters of application shall be accompanied by payment of \$[1,500]3,000 for each non-code design. Additional fees shall be required for designs submitted for a single project and shall be repetitive for each user-application of the design;

5.-6. (No change.)

(c)-(m) (No change.)

#### 12:90-5.15 Fee and visit charge for shop inspection

(a) The fee for shop inspection shall be either:

1. A daily visit charge of \$[160.00]320.00 for any shop inspection of four hours or less which is made for the purpose of monitoring the quality control process during fabrication of a pressure vessel. This daily visit charge shall be \$[300.00]600.00 if the shop inspection exceeds four hours. Audits and joint reviews will be charged by the day/half day rate; or

2. A fee of \$[50.00]100.00 for each pressure vessel when the purpose of the visit is to inspect specific vessels.

#### 12:90-5.16 Registration of unfired pressure vessels and fees

(a)-(c) (No change.)

(d) In instances other than (b) or (c) above, the data reports of the manufacturer, in duplicate, with a registration fee of \$[2.00]4.00 for each unfired pressure vessel, shall be forwarded to the Bureau of Boiler and Pressure Vessel Compliance for registration.

1.-2. (No change.)

#### 12:90-6.4 Inspection of refrigeration systems

(a)-(d) (No change.)



(e) Damaged, altered, defaced or lost certificates must be replaced by request through the Bureau of Boiler and Pressure Vessel Compliance. The fee for replacement shall be \$[7.50]15.00.

12:90-6.5 Fee for field inspection

(a) An insurance company making an annual inspection of refrigeration systems shall pay a \$[20.00]40.00 fee to the Commissioner of Labor and Workforce Development for each system.

(b) (No change.)

(c) The fee for an annual field inspection by the State, based on the refrigeration capacity of the system, shall be made payable to the Commissioner of Labor and Workforce Development as follows:

- |   |                  |
|---|------------------|
| 1. Over three and under 25 tons                           | \$[50.00]100.00  |
| 2. [25] Twenty-five tons and over, but less than 300 tons | \$[75.00]150.00  |
| 3. 300 tons and over                                      | \$[100.00]200.00 |

12:90-8.2 Application for licenses

(a)-(j) (No change.)

(k) The fee for each examination and for any license issued by the bureau shall be \$[50.00]100.00, and the fee for a raise of grade or additional classification shall be \$[40.00]80.00. The fee shall be in the form of a check or money order made payable to the Commissioner of Labor and Workforce Development and shall accompany the application.

(l)-(m) (No change.)

12:90-8.15 Granting of license

(a)-(f) (No change.)

(g) Duplicate licenses for part-time employment may be issued at the discretion of the Commissioner.

1. The fee for a duplicate license is \$[3.00]6.00 for one year.

2.-4. (No change.)

12:90-8.19 Renewal of license

(a) When applying for the renewal of a license, it shall be necessary to return only the signed identification card with a fee of \$[20.00]40.00 for a one-year renewal or \$[40.00]80.00 for a three-year renewal.

(b) (No change.)

(c) An application for a renewal of an expired license shall be approved provided:

1. A fee of \$[30.00]60.00 is enclosed for one year or \$[60.00]120.00 for a three-year renewal when the license renewal is late no more than four months past the expiration date;

2.-3. (No change.)

(d) (No change.)

(e) An altered, defaced or otherwise mutilated license shall be replaced only after review by the Bureau of Boiler and Pressure Vessel Compliance. Photostats, photographs or reproduction of a license shall have no status and shall not be recognized. A fee of \$[5.00]10.00 shall be submitted for a replacement license.